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NOTES OF CASES.

Vaccination of Pupils.—As a defense to a prosecution for failure to send his son to school, a father pleaded a by-law of the board of education which prohibited pupils from attending public schools unless vaccinated. In affirming a judgment of conviction, the Court of Appeals of New York in *People v. Ekerold*, 105 Northeastern Reporter 670, said: "Our public school system has been developed with great pains and solicitude, and its maintenance and support have been recognized as so important for the welfare of the state that they have been provided for and safeguarded in the Constitution itself. As a part of this system, a statute has been passed requiring attendance at school of children within certain limits. * * * Failure to comply with the statute ought not to be excused except for some good reason. It is perfectly evident that in a great city like New York, with its complex and varying conditions, regulations must be adopted for the purposes of preserving discipline, order, and health in the public schools. Some of these regulations would be so plain and essential that no reasonable person would think of disputing their validity or of making unwillingness to comply therewith a basis for not sending his children to school. The question which, within certain limits, is presented here, is whether the statute and the by-laws of the board of education in that city, adopted under and in accordance with the statute requiring vaccination as a condition of attending the public schools, are, under ordinary conditions, so unusual or oppressive that a parent should be allowed to make his unwillingness to comply therewith a basis for not sending his children to school, for that is what the present position of the defendant amounts to. I do not think that they are of such a character."

The Nervous Turkey and Phlegmatic Goose.—The fact that geese were killed on a railroad track raises no presumption of negligence within a law making the killing of cattle or other live stock by a train prima facie evidence of negligence, as geese are not "live stock" within the statute. So held the Supreme Court of North Carolina in *James v. Atlantic Coast Line R. Co.*, 82 Southeastern Reporter, 1026. Nor did the fact that the whistle was not blown show negligence. The court in discussing the latter proposition said: "The plaintiff relies on the 'turkey case' (*Lewis v. Railroad*, 163 N. C. 33, 79 S. E. 283, 47 L. R. A. [N. S.] 1125). But the two cases are very dissimilar. In that case the evidence was that the turkeys could have been seen at a distance of 500 yards; there was quite a drove of them, and they were crossing the track. The turkey is a nervous fowl, and the jury might well have found that if the whistle had been blown the turkeys would have taken wing or have